



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

# THE JOURNAL OF POLITICAL ECONOMY

---

DECEMBER—1903

---

## THE ADJUSTMENT OF STREET-CAR MEN'S WAGES IN SAN FRANCISCO.

THE arbitration proceedings in the recent dispute between the street-car men and the United Railroads in San Francisco brought out with somewhat unusual clearness a number of the most vital points involved in the adjustment of wages. A strong union and a strong corporation sat down together before an umpire to discuss the sole question: "What constitutes a fair wage?" "Collective bargaining" had been tried, but no agreement had been reached as to a rate. Since one party had to buy what the other party was particularly anxious to sell, namely labor, some terms had to be reached, and both sides agreed to reach them by a process akin to appraisement, as applied to the compulsory sale of property. The discussion turned, therefore, mainly upon the method of appraisement, or how best to ascertain what a fair rate of wages is.

It is the purpose of the present article simply to record the circumstances under which the dispute arose, to state its nature, and to review the arguments advanced on each side and the award made by the arbitration commission, with a view, mainly, to placing on record, for reference, those of the facts and arguments which are likely to be of use to students of economics. No

extended discussion of the important principles involved will be undertaken.

The dispute had its origin in the coincident formation of a combination of capital and of a labor union, and was an attempt on the part of the men to force better terms from their new employers than they had enjoyed under their old, by taking advantage of the exigencies of the transfer of the properties.

Until 1902 the street-car lines in San Francisco were divided among a number of companies. There were eighteen original companies, but these had been reduced to eight by consolidation prior to 1902. The largest of the original companies was the Market Street Cable Railway Co., which, by a consolidation effected in 1896, absorbed ten other companies and took the name of the Market Street Railway Co. This was one of the many guises of the Southern Pacific Co., the corporation controlling the principle steam railroads in California and on the Pacific coast. In 1902 the Market Street railway system and several other lines were bought by a new company known as the United Railroads of San Francisco, and passed from the control of the Southern Pacific, leaving only three independent companies. The capital necessary for the purchase was raised in the East, largely through the agency of Brown Brothers. According to the published reports, the present owners paid \$27,500,000 for the properties acquired, which they capitalized at \$75,275,000, placing, however, only about \$45,000,000, in various stocks and bonds, on the market. The gross earnings in 1901 were reported as \$5,125,883; net earnings, \$2,065,925; total income, \$2,083,155; surplus available for dividends, \$1,275,955.

Until 1902, also, the street-car men employed on the different lines in San Francisco were not unionized. But the excitement incident to the transfer of the property, the uncertainty in the minds of the men as to what the policy of the new owners might be, and an "irritation of long standing" over the severe enforcement of disciplinary measures led the men to form a union. The fact that the union spirit was strong in the city at the time doubtless added to the facility with which the men were brought together. The union was, it is reported, formed secretly, on

account of the opposition of the old management, by which the leaders and those first to join were discharged. This happened about the time of the consolidation of the properties, just before the management was transferred to the new owners and before the new securities were "digested" in the market. The leaders of the union, seeing in these circumstances their opportunity, persuaded the men to make certain demands at once. These demands, which came into shape but gradually, were in the main: (1) for the reinstatement of the men who had been discharged, as it was alleged, for joining the union; for the modification of certain strict rules as to the men's conduct, especially while off duty, and the abolition of the espionage by which the company obtained the information for the enforcement of these rules; (2) an increase in wages from 22½ cents per hour to 25 cents, and the abolition of the payment of a bonus to men long in the service of the company; (3) certain changes in the time cards and rearrangement of the runs so as to make the normal working day ten hours on the car within a maximum period of fourteen hours, and others tending to equalize the work between the different classes of men; and (4) recognition of the union.

The officials of the new company were not yet in the saddle, the active management being still in the hands of the officials of the old company. All important matters affecting the policy of the new owners had to be referred to the eastern owners for final settlement. All of this made the situation peculiarly difficult to deal with, often causing a delay of twenty-four hours in reaching a decision. Public opinion was strongly with the men. The reported system of espionage and the alleged attempted control of the leisure hours of the men excited public sympathy. Furthermore, the rapid rise in prices and the stimulation of all industrial enterprises, which had followed the dark days of the depression just prior to the Spanish war, had led, during 1901 especially, to an increase in wages in many California industries, and a strong public sentiment upheld the demand for a similar increase in carmen's wages. Apparently through ignorance of the extent and strength of the union, the company brusquely refused to listen to the demands; the men struck, and succeeded in tying up the

lines for seven days. At the end of that time the company yielded every point, save recognition of the union (which has since been granted), and even went so far as to accept the resignation of the former general manager of the Market Street system, who had excited the particular hostility of the men.

The success of the street-car men's strike, in April, 1902, cannot be fully understood without reference to the peculiar industrial and political conditions which existed in San Francisco at the time. Following the Spanish war there had been an expansion of shipping activity and a violent rearrangement of the old conditions of commerce, which had taxed the existing resources of the water-front industries to the utmost. All the men in these industries were thereupon organized into unions, which became exceptionally strong. The existence, for many years, of a strong seamen's union, that had enjoyed unusually devoted management, furnished a model, and the unwonted demand for men afforded the opportunity. It was the somewhat unusual case of industries essentially unskilled being successfully unionized. Expressly to meet this condition the employers had also formed a compact. In one of its frequent outbursts of hospitality, San Francisco had undertaken to entertain the Epworth League Convention in the summer of 1901. Visitors arrived many thousand strong, and the principal express company in the city, which had the contract to deliver the trunks, and which was almost the only organization touching the water front, employing non-union men, found itself unable to handle all the trunks. The manager of this company called upon his brother, who was the manager of a large draying concern, to deliver some of them. The union draymen refused to handle baggage tainted by a contract which threw the bulk of it into the hands of non-union express men, and were promptly discharged in accordance with the policy outlined by the employers' association. This precipitated a general strike, for, out of sympathy, practically all the water-front unions, including some twenty thousand men, were drawn into the fight, and all transportation, draying, and cartage was tied up. This strike was fought with the utmost bitterness, and violence was freely resorted to on the slightest provocation. There was no

adequate ground for the strike, and it can be regarded as simply a trial of strength. No definite terms of peace were made, and the strike finally wore itself out. About the same time there was a strike among the iron workers, especially those engaged in shipbuilding. This, too, was fought with extreme bitterness. These strikes strengthened the union labor movement and heightened the feeling of the men to such a point that when, in the next municipal campaign, a labor-union ticket, headed by a member of the musicians' union, was placed in the field, the ticket won, to the surprise and chagrin of the old party managers. As San Francisco rejoices in an extreme form of the "one man power" charter, the mayor so elected was in practical control of the entire city government.

As a result of this election, which had occurred but shortly before the street-car strike of 1902, the company assumed, whether rightly or wrongly does not appear, that it could not have adequate police protection. There was, however, comparatively little violence, and, save on the first evening of the strike, the cars were not damaged; so that the willingness or unwillingness of the city government to furnish protection did not come to direct proof. Attempts to run the cars with non-union men were balked by "persuasion," rarely in the form of severe violence, and, if the newspaper accounts are to be believed, occasionally by frank and open bribery. The character of the city government, however, contributed in no small degree to the success of the strike through the effect it had on the fears of the company; and it gave peculiar significance to the threat, voiced later by the attorney for the men, "that the fifty thousand union labor men in San Francisco will never—and they ought never to—permit the company to bring in non-union men from outside to take the place of these car men."

As has already been suggested, public sentiment favored the men in this strike, largely because of the alleged oppressive measures used to enforce discipline. But that was not the sole reason why public sentiment was against this particular company. The Southern Pacific Co. and all the roads connected with it had been very unpopular in California. They were commonly

accused of charging exorbitant rates, and the charge was widely believed. This belief was complicated, and the unpopularity intensified, by the effect on the public mind of the attacks made and the scandal raised by those who conducted the innumerable blackmailing raids of every sort upon the railroad, and by the political maneuvers into which the company allowed itself to be drawn. The Market Street Railway Co., as part of the "Octopus,"<sup>1</sup> shared in this unpopularity, and the new management inherited much of this somewhat unreasoning sentiment.

It was but a short time after the settlement of the strike of April, 1902, that trouble was brewing again. First there came friction over giving instruction to learners and over signing "student cards." With a view to prevent the company, in case of a strike, from filling its cars with new men, the union had supported a municipal ordinance requiring seven days' apprenticeship for a learner, and in the same spirit tried to limit the number taught. Apparently incited by the easy victory their first efforts had won, the leaders took advantage of what seemed a trifling irritation, to foster further discontent, and started an agitation for higher wages. The abolition of the bonus system and the strict adherence to the ten-hour day, together with the effort of the company to equalize the runs, all of which was strictly in accord with the agreement reached after the strike, tended to cut down the earnings of many of the older men and made them, at least, dissatisfied with the new rates. In fact, the men requested the company to remove the ten-hour limit so that they might take longer runs and increase their earnings.

In March, 1903, after prolonged agitation, the leaders presented new demands to the company. These were long and complex, and unfortunately were never very clearly stated in their details. They may, however, be considered as two, for all the others were matters of easy adjustment on friendly conference. These two were: (1) recognition of the union, to the extent of the employment of none but union men; the discharge of men expelled from the union and the right of the union to review

<sup>1</sup> Campaign slogan of Adolph Sutro when running for mayor of San Francisco on a strictly anti-railroad issue, and the title chosen by Frank Norris for the novel in which he portrays this hostile feeling toward the company.

the causes of discharge, in each case when men were discharged by the company; (2) that the rate of wages, originally 22½ cents per hour and raised to 25 cents per hour after the strike, should be further raised to \$3 per day for a six- to nine-hour day, with 45 cents per hour for overtime and 50 cents per hour for instructing learners. The company early in the dispute granted a limited recognition of the union, and that was cleared from the "demands," so that the real issue was, practically, the increase in the rates of wages.

A strike was threatened. The political conditions were the same as at the time of the previous strike, and the temper of the union men in the city much the same. But public opinion was different. This time it was singularly quiescent, and what little expression there was, was in favor of the company, in view of the large increase demanded and the short time that had elapsed since the strike. The new demands came at a rather inopportune time for the company, as the syndicate which financed the consolidation was just then engaged in trying to float a large issue of bonds. The upshot was an agreement to arbitrate. It was agreed that Mr. Patrick Calhoun, representing the syndicate, and Mr. W. D. Mahon, the president of the Amalgamated Association of Street Railway Employees of America, of which the local union is a division, should endeavor to adjust the differences, and, if they failed, should appoint an umpire, with whom they should constitute a board of arbitration. The settlement when reached should take effect as of May 1, 1903, and continue in force for one year.

The two gentlemen named came to San Francisco in June, and after prolonged conferences succeeded in adjusting all the differences except those relating to the rates of wages, which included the hours of labor also. Compromise seemed out of the question, as the men preferred, in the words of one of the leaders, "a hundred-to-one shot at \$3 per day to any slight advance." Finally the two adjusters requested Mr. Oscar S. Straus, of New York, second vice-chairman of the National Civic Federation, and member of the Board of Arbitration of the Hague, to serve as third arbitrator. As Mr. Straus could not



come to California and the board could not sit as a whole to hear the evidence, it was agreed to take the testimony before a commissioner, after the manner of some law courts, and to send it to the arbitrators in New York, where the case was argued orally in October.

The case thus brought to arbitration was regarded as one of considerable importance. It affected directly some two thousand street-car men and some 45 million dollars of capital, and might affect by force of example all the street-car interests in the country. Both sides took plenty of time and spared no pains or money in the preparation of the evidence and of the argument. The actual taking of testimony in the hearing before the commissioner in San Francisco occupied six weeks, a very large amount of written evidence was produced, and documentary exhibits of all sorts were collected.<sup>2</sup> The issue was clear and the grounds upon which each side stood unequivocal. The question presented to the arbitrator was at once the most difficult and the most vital, that can come up between labor and capital, namely a fair wage. The men argued that when the cost of living advanced their wages should advance, if the employer could afford to pay more. The company argued that the men should be paid what they earn, as determined by the supply and demand for labor, under assumed conditions of free competition, in the market in which they sell their labor, irrespective of whether the company is making money or what the cost of living may be. While each side consistently denied the propriety of the method of its opponent for determining what constitutes a fair wage, yet each consented, for the purpose of the argument, to consider the proposed rate from the point of view of its opponent, as well as from its own. Both sides became so much interested in establishing a proper basis for determining a fair wage that they looked for some expression on this point, from the arbitrator, with an interest second only to that taken in the

<sup>2</sup> At one point of the proceedings the attorney for the men actually suggested that a cable car should be introduced as an exhibit in order to show the intricacy of its mechanism and to prove that the man who handled or repaired such a car could not be called "unskilled."

rate of wages to be determined. It was more than an idle statement when the attorney for the men said in his argument that "arbitration is itself on trial in this case." Unfortunately the award was a compromise satisfactory to no one. It gave no explanation of the reasoning by which a decision was reached, and showed in several instances a misunderstanding of the circumstances surrounding the dispute. The latter fault may, perhaps, be attributed to the fact that the arbitrator was not familiar with the economic conditions in California, which are peculiar. But it is certain that the opinion is less interesting than the arguments.

We may review the arguments and the award under four heads: (1) the cost of living; (2) the ability of the company to pay higher wages; (3) the labor market; and (4) the hours of labor.

#### I. THE COST OF LIVING.

It was urged by the men as a ground for an increase in their wages that the cost of living had advanced so rapidly, after the settlement of the strike in April, 1902, that, even with the very substantial increase in wages obtained at that time, they were unable to live as well as they had before. They claimed that there had been an advance of between 20 and 30 per cent. in the cost of living, and supported this by a mass of unorganized testimony as to the cost of various commodities, and by the opinions of a multitude of witnesses. Much of this testimony was vague and indefinite and impossible of verification. People in general have, of course, recognized the rapid advance in prices since the Spanish war, and it seems difficult for those not given to careful discrimination to understand that, as shown by the United States Department of Labor index, Dun's index, or any other systematic review of prices, the rise occurred mainly in the three years 1898, 1899, and 1900, and was practically over in 1902. During the first half of 1903 the decline which has since set in was not apparent. Recent advances in the price of bread, milk, and meats were taken as typical of all commodities and tended to confirm the erroneous impression. The men who testified to such a remarkable increase, in so short a time, simply voiced what was the

general belief. As the men had received all they asked in 1902, they were debarred from showing that the increase prior to that date had been more rapid than the advance in their wages.

The company replied to this that the cost of living had no bearing on the question of what the wage rate ought to be, the latter being, the company claimed, determined by supply and demand in the labor market, under assumed conditions of free competition, and any other method would, in its result, contravene great economic forces and bring ruin. But it argued further that even if the cost of living were taken into consideration, there had been no such advance as the men claimed, in the short period of one year, and that whatever advance there had been was more than discounted by the increase in wages already granted. In support of this contention the company then presented statistics compiled from the San Francisco market reports, published regularly in the newspapers, covering, separately, both retail and wholesale prices. These had been reduced to simple and to weighted index numbers by several of the usual methods, which all showed substantially the same result, namely, that, although there had been violent fluctuations in the prices of some commodities, and a number of rather large fluctuations from month to month, such as are usually produced by the changes of the season, the entire cost of living, including food, clothing, rent, fuel, and light, showed no general tendency upward or downward during the one year. A comparison of the first four months of 1902 with the first four months of 1903, including only those of the above items that had advanced and omitting those which had declined, showed an increase of less than 3 per cent.

Mr. Straus in his award makes no distinct reference to the main issue in this connection, namely, as to whether the cost of living has any bearing in determining what the wage rate ought to be. He simply repudiates "the ruling that wages, like" the price of "any other commodity, is regulated by the demand and the supply" of labor,<sup>3</sup> and advances the opinion "that, in our

<sup>3</sup> It is interesting to compare the phraseology of this statement with that of one of the witnesses for the union, who helped to lay the theoretical basis for

day, with more humane considerations of this question, there has come about a decided departure from this rigid and often inhumane method of regulating wages." But he fails to state what these humane considerations are or the direction of the "departure." However, he obviously frames his award on the basis of his estimate of the advance in the cost of living, so that it is probably safe to infer that he believes it pertinent, and that an increase in the cost of living is a fair ground for an advance in the rates of wages, even when, as in this instance, the increase cannot be shifted to the consumer by raising prices or fares. It would be interesting, although possibly futile, to speculate on the deductions to be drawn in case of a decline in the cost of living. In this respect the award goes very much farther than the considerations of the cost of living by the Anthracite Coal Strike Commission, for the ability of the car men to maintain the American standard of living, in San Francisco, on the \$700 to \$900 they earn each year, was not denied.

Having tacitly assumed that the cost of living should regulate the wage rate, the arbitrator seems to have been much more concerned with the method of determining whether, and how much, the cost of living had increased. He rejected both the lines of evidence submitted, stating simply that the testimony offered by the men was "lacking in definiteness, and, in part, in reliability;" while the basis of that offered by the company was "not entirely satisfactory or convincing." His reason for the last statement is not given, but it may be safely assumed that he was influenced by the argument of the counsel that the retail prices used should have been those of the small, local groceries and markets in the suburbs, where it was claimed that the men trade, and not those of the large central markets where competition would tend to keep the prices at a minimum; or he may have thought that the lists of commodities used, namely, those included in the Department of Labor index number, and in the investigation for the Anthracite Coal Strike Commission, were not strictly representative union argument, on this point. He said: "I have always held and contended that the matter of wages cannot be fixed and determined like the prices of commodities, according to the law of supply and demand, but must be regulated by what it costs a man to live."

tive of the living of the car men in San Francisco. The method of measuring fluctuations in the cost of living is a point which may be passed over in this brief review, for it is one on which the student of economics is not particularly interested in having an arbitrator's views, as it is simply a question of scientific method and already fairly well settled. Having rejected all the estimates submitted by the disputants, the umpire cites the fact that rents had advanced, in some instances 10 per cent., and that the Anthracite Coal Strike Commission found an advance in 1902 over 1901 and other earlier years, and concludes, apparently, that the truth lay somewhere between the two claims, for he gave some of the men an advance, amounting to 5 per cent. for men who had been in the employ of the company less than two years in April, 1903, and 10 per cent for those longer in the service; thus making three grades, 25 cents per hour, for those engaged since April, and  $26\frac{1}{4}$  cents and  $27\frac{1}{2}$  cents per hour, respectively, for the two classes named.

The establishment of a graduated scale is considered by the union leaders a victory for the company. It appears that it is an advantage to a street-car company to have in its service men who have been there many years and who have proved their faithfulness and attachment to the work, and it is quite common to advance such men in wages or to distinguish them in some way by marks on their uniform. Out of 370 companies investigated, 198 had rates of pay graduated according to the term of service. It is the theory of the union leaders that all the men, after they have once learned the business, perform the same service and should be paid alike. In his eagerness to prove that street-car men should not be classed with common or unskilled labor, and given the low wages of such classes, the attorney for the men had laid great stress on the point that the men were worth more to the company as they gained in experience, and this seems to have been the view of the arbitrator.

## II. THE ABILITY OF THE COMPANY TO PAY.

The ability of the company to pay higher wages came into the controversy at first as a side issue, and then developed into

one of the most important questions that came before the board. The men, when stating that they could not live as well on the new wage as they had lived before, had argued that their demand was reasonable because the company could pay it without difficulty. The counsel for the car men developed this into an argument that the company was making large profits and ought in equity to share this jointly produced wealth with its employees. The company replied that its profits or its losses had no bearing on the question of what constituted a fair wage, asserted that the demand was socialistic, and that it expected to pay fair wages even if it were on the verge of bankruptcy, and no more than fair wages even if its income were very much larger than it was; and, while still denying the pertinency of the inquiry, injected the statement that its profits were not large, not amounting to more than a reasonable return upon the capital actually spent on the purchase of the properties. But it positively refused to show its books, to submit any figures, or to allow its officers to testify on this point. This refusal caused many a bitter controversy and much abuse of witnesses, and it was finally referred to the arbitrators to decide whether this line of inquiry should be pursued. The extreme doctrine that the rate of wages should be regulated by the rate of profits was apparently rejected, for it was the unanimous decision of the commission that testimony on this point would not be considered, "because no question has arisen as to the company's lack of ability to pay its wage, or any wage this commission should decide."

### III. THE LABOR MARKET.

The company asserted that the wage rate ought to be fixed solely with reference to what could be learned of the prevailing conditions of the supply and demand of labor, assuming conditions of free competition among the men; and that any other method of fixing wages would so contravene economic principles as to defeat its own end. It then proceeded to show by various methods what the market rate was. It demonstrated that it was paying the highest rates paid to street-car men for similar services anywhere in the country, except in a few mining towns in Montana where the conditions were exceptional. This was

admitted by the men, who denied, however, that it had any bearing on the market rate, asserting that the San Francisco labor market was peculiar and that wages are, and always have been, higher in San Francisco than in other cities of like size. To meet this the company stated that it could, if the union left it free hand, obtain all the men it needed for street-car service in San Francisco, at the existing rates. To prove this it cited the large number of applications for work received by it daily, and brought in the managers of employment agencies who testified that the supply was ample. It also cited various circulars and other publications issued by the Labor Council and other labor organizations in San Francisco, intended to offset the work of the California Promotion Committee (which is endeavoring to bring people to California) by asserting that there was a plethora of laborers here already. The men retorted that this sort of competition could not be considered in the face of their strong union, and that the evidence applied only to unskilled labor, while street-car work required experienced, steady, and responsible men, even if their occupation could not be called skilled. And they claimed further that there were not enough competent men outside of their own ranks to fill the cars. The company then said that it could draw upon the labor supply in other centers and import men trained to the street-car work from there. It claimed that the men would gladly come from the low wages, and severe weather conditions under which their work was rendered in eastern cities, to the high wages and the mild, equable climate of San Francisco. On this point they cited eastern employment agencies and street-car managers in other cities. This led naturally to a discussion of the relative cost of living in San Francisco and in other cities, and whether such men could afford to come. The company engaged a firm of certified public accountants in New York to collect statistics in fourteen cities in different parts of the country, and showed that the cost of living was less in San Francisco than in any other of these cities, where lower wages are paid to car men for similar, but essentially harder, service. As this could not be successfully controverted, the car men's attorney replied with the threat, above cited, that the union, assisted by all the other unions in San Francisco, would see to it that the company

did not import non-union men to displace the union men now on the cars. In short, he claimed that the union had a monopoly and that the principle of competition did not apply. San Francisco was, according to this view, to be regarded as a closed market for labor, and conditions elsewhere should not be considered. The merits of these interesting and conflicting claims were not considered in the award of the commission, which contented itself with the simple commonplace "that, generally speaking, the rate of wages is somewhat higher in the city of San Francisco than in other cities of equal size throughout the United States;" although the bearing of this on the matters in controversy when the wages already paid were, according to the commission's own finding, "from 10 per cent. to 15 per cent. higher than those paid by similar railways in other cities," is not very clear.

#### IV. THE HOURS OF LABOR.

The demand of the men was for \$3 per day on regular runs. A regular run, which should constitute a full day's work, was defined as one which could be completed in not less than six nor more than nine hours. The question of hours was thus inextricably entangled with the question of wages. The men had no intention of asking for reduced hours, unless their regular earnings were at the same time maintained or increased. This involved, of necessity, a change from a rate per hour to a rate per day. It was, therefore, not altogether pertinent to discuss the hours of labor apart from the rate of wages. But the board took them up separately and decided that, in view of the practice in street-car service elsewhere and the exceptionally mild climate of San Francisco, a little less than eleven hours per day was not too long on the car, and the prevailing schedule of hours was left unchanged.<sup>4</sup>

#### SUMMARY AND COMMENT.

The theory of the men seemed to be that the market rate of wages which might prevail, under assumed conditions of free

<sup>4</sup> There were other questions connected with the hours of labor which were largely of a practical nature, such as the relative merits of a continuous nine-hour day and of one broken for meals; or the possibility of keeping the cars moving twenty to twenty-four hours per day when two full turns on the car, or two regular runs, amounted to only eighteen hours, without compelling the company to employ many men on short hours. These were not ruled upon by the umpire.



competition, should be regarded in all adjustments of the wages of union men, if regarded at all, as the impassable minimum, and that if the cost of living were abnormally high, or the company unusually prosperous, higher rates should be paid. In the view of the company this demand of the union was of the nature of an artificial restraint of trade interfering with the natural and healthful forces of free competition, and that a fair day's pay for a given service comes as close as possible to what the service would be worth at the market rate if there were no union. The theory of the award is not very clear, but seems to be that "humane considerations" dictate the payment of higher than the market rate when the cost of living is high. It is much to be regretted that the reasons for this attitude were not presented, and that the umpire decided that he would "not enter into the economic speculations that this question gives rise to, as it can serve no purpose here." *Per contra*, if by "economic speculations" he meant the definition of the terms "just" and "equitable" in his statement. "I have endeavored to be just and equitable to both sides," it would have served a very useful purpose.

Cases like this where the issue is clear, and is vital, going to the very root of the greatest of the unsettled questions in the relations of union labor to capital, afford a splendid opportunity for arbitrators to do something that shall outlast their day and generation. Whenever a dispute between wage-earners and their employers, involving solely the adjustment of wages and not complicated by the petty details of temporary "irritation," is submitted to arbitration, it clearly becomes necessary to determine what the principles are by which the members of the board or commission ought to be guided in reaching a decision. No award by a board of arbitration in such a case can ever be thoroughly satisfactory unless it is supported by reasons which appeal to the sense of justice of all concerned; and every such board is in duty bound to formulate such general principles in support of its award. Under such circumstances the expression which too often mars such awards, "I have tried to be fair to both sides," is, when unsupported, utterly meaningless and serves

but to hide the true reasons for the award. No court of law decides an important case without citing the law. These labor disputes are not, and in the nature of things cannot be, referred to the ordinary courts of justice, because the "rights" involved have never been formulated in a manner to obtain that general recognition which is essential to "law." The chief appeal is made, not to accepted tenets, like principles of law, but to certain original crude conceptions of justice and right similar to those which, Woolsey said, "the Creator of man has implanted in his nature, in order to protect the individual members of human society from one another, and to make just society possible." Many of our most universally accepted conceptions of rights, of justice, and of equity were at first crude conceptions as vague and ill-defined as is our present-day conception of what we are pleased to call a "fair wage." They crystallized but slowly into those grand conventions which, as Woolsey, in more teleological language, correctly says, make "just society possible," by proving their worth and their utility to society, and are now written large in our legal and moral codes.

The appeal being to such ill-defined ideals, arbitrators cannot well afford to refuse to define what they mean by "fair." The amount of the award concerns the present alone; the "how" of it may make for the progress of the race. Arbitrators sit as judges in labor disputes, and at present they make their "law" as they go along. They have few precedents to guide them, because precedents are still in the making. But principles formulated in important labor disputes, when they are clearly and forcefully expressed, and ring true to manhood, will naturally become precedents, and be quoted and appealed to in subsequent cases much as legal opinions formulated by the courts are referred to and relied upon. Is it altogether fanciful to suppose that there may thus grow up, in a manner not unlike the growth of our common law, or perhaps even more closely analogous to the growth of international law, a body of rules or principles having much the force of law in the future adjustments of wages?

CARL C. PLEHN.